



Approved By Tualatin City Council  
Date 10/27/2008  
Recording Secretary J. Kirby

## STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Nancy McDonald, HR Director *[Signature]*  
Debra Senger, HR Program Coordinator *[Signature]*

**DATE:** October 27, 2008

**SUBJECT:** AN ORDINANCE ESTABLISHING A CRIMINAL HISTORY  
RECORD CHECK POLICY FOR THE CITY OF TUALATIN

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### ISSUE BEFORE THE COUNCIL:

Whether to adopt an ordinance establishing a policy to check criminal history records of all employment applicant finalists, and certain volunteers, and independent contractors, prior to beginning service for the City.

### RECOMMENDATION:

Staff recommends that Council approve the ordinance establishing the criminal history record check policy.

### EXECUTIVE SUMMARY:

The City of Tualatin obtains insurance coverage from City County Insurance Services (CCIS). CCIS Risk Management best practices require background checks on employment applicants, and certain volunteers and independent contractors; specifically those who work with vulnerable populations, sensitive information, and/or financial transactions. Beginning with the next renewal cycle, the City will be eligible for a more favorable insurance rate with CCIS for following their best practices recommendations. After staff review, it was determined that an in-house process would be the most efficient method for performing the investigations. The State of Oregon Law Enforcement Data System "LEDS" rules require that the City adopt a policy, by ordinance, outlining the process to be used when conducting criminal history records checks for any individual working or volunteering outside the police department.

**FINANCIAL IMPLICATIONS:**

There is no outside cost for police criminal records checks on the LEDS system. Existing police department staff will be able to conduct the checks within their regular work schedules. When a prospective employee, volunteer, or independent contractor's report does not meet standards set for the position, and the Human Resources Director requests a written criminal history record report from the OSP Identification Services Section, there is an associated \$10 fee. These requests are expected to be very infrequent.

**Attachments:**      A.      Ordinance

ORDINANCE NO. 1271-08

AN ORDINANCE ESTABLISHING A CRIMINAL HISTORY  
RECORD CHECK POLICY FOR THE CITY OF TUALATIN

WHEREAS, the City Council finds it in the City's best interest to have the Tualatin Police Department perform criminal and driving history record checks on finalists for all positions in City departments, and certain City volunteers and independent contractors, who work with vulnerable populations, sensitive information and/or financial transactions; and

WHEREAS, the City Council finds that the State Law Enforcement Data System (LEDS) regulations require that the City Council adopt an Ordinance to direct the Police Department to conduct such records checks.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. A new section, TMC 1-6-060, is added to the Tualatin Municipal Code to read as follows:

**TMC 1-6-060 PURPOSE**

The purpose of this Ordinance is to authorize the Tualatin Police Department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) for applicants seeking employment or volunteer work, and independent contractors operating within the City of Tualatin, in accordance with OAR 257-10-025(1)(a).

Section 2. A new section, TMC 1-6-070, is added to the Tualatin Municipal Code to read as follows:

**TMC 1-6-070 PROCEDURE**

All proceedings under this Ordinance shall be conducted in accordance with ORS 181.555 and OAR 257-10-025, which establish procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS), and as supplemented below.

- (1) All parties subject to a background check under this Ordinance will be required to authorize the City of Tualatin to conduct a criminal offender information check through the OSP LEDS system.

- (2) The Human Resources Department shall maintain the criminal history authorization forms for those doing work on behalf of the City and request that a criminal history check be made if the Human Resources Director determines that it will be in the best interest of the City in filling the position.
- (3) The Tualatin Police Department shall conduct the check on the prospective employee, volunteer, or independent contractor doing business with the City and report to the Human Resources Department that the person's record indicates "no criminal and/or traffic infraction record" or "criminal and/or traffic record does not meet standards set for that position".
- (4) If the person's record is reported as "criminal record and/or traffic record does not meet standards set for that position," the Human Resources Director or designee may request a written criminal history report from the OSP Identification Services Section in accordance with OAR 257-10-025(1)(c) and pay the applicable fee for this service. The Human Resources Director or designee may make a written criminal and/or driving history record available to the selecting official for his/her consideration in making the hiring decision.
- (5) The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with OAR 166-40-080 for three years, and then destroyed by shredding at the end of the three-year period.
- (6) The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel file of that employee or volunteer. Only persons authorized by law or regulations may access confidential personnel files.
- (7) Applicants for employment or appointment as a volunteer or independent contractor who have a felony criminal history or a history of conviction of a misdemeanor will be closely examined to determine if the person possesses the trustworthiness needed to meet the required degree of public trust and confidence. Each selection shall be made on an individual, case by case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post applied for, and the results of the criminal history check. Factors, such as the age of the offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal history report.

- (8) Hiring an applicant or appointing a volunteer or independent contractor with a criminal history record will require the approval of the Human Resources Director, after full disclosure and consideration of the criminal history of the applicant and discussions with the Police department official conducting the background investigation.

Section 3. A new section, TMC 1-6-080, is added to the Tualatin Municipal Code to read as follows:

**TMC 1-6-080 SAVINGS**

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining section or parts of sections.

INTRODUCED AND ADOPTED this 27th day of October, 2008

CITY OF TUALATIN, OREGON

By \_\_\_\_\_  
Mayor

ATTEST:

By   
City Recorder

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY